IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.MC.No. 3052 of 2007()

CC.321/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NILAMBUR

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PETITIONER: ACCUSED NO.10

MOHAMMED IQBAL, S/O.MOIDEEN, AGED 51
YEARS, POOKODEN HOUSE, VAZHIKADAVU,
KODUNGAL, MANJERI.

BY ADV. SRI.M.K.CHANDRA MOHANDAS

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. ASSINAR, S/O.ABDUL KHADER,
OTHUKANDAL HOUSE ALLAMALA,
GOODALOOR TALUK, NELAGIRI DISTRICT,
TAMIL NADU.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3052 of 2007

Dated this the 4th day of October, 2007

O R D E R

The petitioner is the 10th accused. Cognizance has been taken by the learned Magistrate of offences punishable, inter alia, under Sections 468 and 471 r/w 149 I.P.C. The crime was registered on the basis of a private complaint filed by the defacto complainant and it was forwarded by the Magistrate to the police under Section 156(3) Cr.P.C. Investigation is complete. Thereafter final report has been filed. Cognizance has been taken. The petitioner has already appeared before the learned Magistrate.

2. The petitioner has come to this Court with a prayer that the proceedings against the petitioner may be quashed in so far as it relates to him. Various contentions are urged.

3. The major allegation in the case is that a document has been forged for the purpose of misusing the same in a civil proceedings. Cognizance has been taken not on the basis of any complaint filed by the court concerned. It is by now trite that in respect of a document which is already forged and later produced before the court, cognizance can be taken even without any complaint filed by the court. The stipulations of Section 195 Cr.P.C

cannot apply to such a document which is forged earlier and produced later before the court.

4. That being the legal position, it cannot be said that the final report, as it is, is liable to be quashed. It is certainly for the petitioner to appear before the learned Magistrate and raise all his contentions at the stage of Section 239/240 Cr.P.C. Needless to say that the learned Magistrate must consider the contention in detail and ensure that the petitioner is not compelled to unnecessarily stand trial for offences which he is not in law bound to answer and face a prosecution. As the cognizance taken for the offence of forgery at least is justified I am not proceeding to consider the other contentions against cognizance for other offences.

5. This Crl.M.C is, in these circumstances, dismissed, but with the observation that the petitioner shall be at liberty to raise all his contentions before the learned Magistrate and claim that charges are not liable to be framed against him for the various offences which are alleged against him in the final report.

(R.BASANT, JUDGE)

rtr/-